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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/708,995	04/06/2004	Robert Anue		2994

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PATENTRY  
300 MURCHISON DRIVE, SUITE 218  
MILLBRAE, CA 94030

EXAMINER

SUERETH, SARAH ELIZABETH

ART UNIT PAPER NUMBER

3749

DATE MAILED: 09/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/708,995

Applicant(s)

ANUE, ROBERT

Examiner

Sarah Suereth

Art Unit

3749

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 July 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 1-3,5,11-14,20 and 21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4,6-10,15-19 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment filed 7/28/06 is acknowledged. Claims 1-3, 5, 11-14, 20, 21, are cancelled. Claims 4, 6-10, 15-19, and 22 stand and are examined.

### ***Claim Objections***

2. Claim 22 is objected to because of the following informalities: in line three of the claim, "the following methods" should read --the following steps--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 7 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Line 1 of claims 7 and 8 state that the frame has a "cylindrical end wall", which are not described in the specification or evident in the drawings. The cylindrical end portion does not appear to be solid, or to have a wall portion.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 4, 6-10,22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate (6257125) in view of Tsai (5992407).

Pate discloses a tray (54, 58), and a frame (4) in which the frame supports (Figure 3) the tray, a wind sleeve (84), and cook pot (82) with an insulating band (read as the lid of part 82).

Regarding the limitation "functions in two configurations" in claim 4 e.g., the Pate apparatus is capable of holding a sleeve inside or outside the frame, as the geometry of the Pate apparatus is similar to applicant's.

Regarding claim 4, the frame comprises bent wire (col. 3, lines 11, 12) in a plurality of loops (20,50) surrounding a central horizontal member (52) smaller than the diameter of the cook pot with a plurality of protuberances (53) that extend beyond the circumference of the cook pot (Figure 3), and metal.

Regarding claim 7, the frame has an end portion (20) having a diameter larger than that of the cookpot (82) (Figure 2).

Regarding claim 8, the other end (52) has wire loops (53) that would obviously apply a force outwards if forced in that direction.

Regarding claims 6, 9, and 10, the tray comprises a platform (54), and vertical suspension means (58), allowing fuel to be ignited below the cook pot (Figure 2). The bent portion of element 58 just below element 52 is regarded as the claimed loops.

Regarding claim 15, the vessel is inherently capable of being inverted. Also, the term "light weight" is relative and the Pate device is considered to be light weight.

Pate does not disclose a wind sleeve that is flexible. However, Pate mentions that having a windscreen is important to guard against extinguishing the flame (col. 4, lines 50-52).

Tsai shows a cookstove having a sleeve (14), the sleeve being positioned around the cookstove (Figure 1), functioning as a windscreen and heat reflector (col. 1, line 7).

Regarding claim 4, the sleeve is a self supporting, flexible cylindrical wall having an expandable opening providing air to the tray (Figure 1). The flexibility is evidenced by the fact that the screen can be folded (col. 1, line 14), and the expandable opening is evidenced by the fact that the sleeve can be repositioned (col. 1, line 13).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Pate apparatus with the windscreen of Tsai in order to be able to reposition the shield as the direction of the wind changes (col. 1, line 13).

Claim 22 is rejected because the Pate in view of Tsai apparatus performs the method steps as claimed.

6. Claims 15-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pate (6257125) in view of Tsai (5992407), further in view of DeCarlo (5179932).

As discussed above, the Pate in view of Tsai combination discloses the claimed invention with the exception of a collapsible fuel tray.

DeCarlo discloses a portable stove having a fuel tray (18) that is collapsible onto a support frame (14) (Figure 1).

Regarding claim 17, Figure 3 shows an expanded configuration, and Figure 1 is the collapsed configuration.

Regarding claim 18, the second configuration is a nested position (col. 3, lines 4,5).

Regarding claim 19, the tray and frame are made of wire (col. 4, lines 23-25).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Pate in view of Tsai apparatus with the fuel tray of DeCarlo in order to make the apparatus easy to carry (col. 1, lines 36,37).

### ***Response to Arguments***

7. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

8. In response to applicant's argument that Pate is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, all the references applied in the above rejections deal with portable stoves, which are in the same field of applicant's endeavor. Specifically, Pate discloses that the intention is to make a portable stove of simple construction, to incorporate a shield to prevent the flame from being extinguished by wind (col. 2, lines 30-35). Although the gimbaled mechanism is particularly relevant to stoves in moving environment, the portable stove is not limited to that function, and would work equally well in a nonmoving environment.

### ***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any


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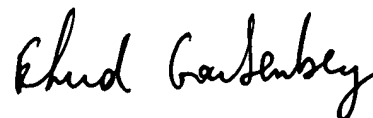
extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Suereth whose telephone number is (571) 272-9061. The examiner can normally be reached on Monday to Thursday 7:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ehud Gartenberg can be reached on (571) 272-4828. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sarah Suereth  
Examiner  
Art Unit 3749



**EHUD GARTENBERG**  
**SUPERVISORY PATENT EXAMINER**